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(928) 474-2029

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1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8753

Shirley L. Dawson, District III
1400 E. Ash St. Globe, AZ. 85501
(928) 425-3231 Ext. 8511



Don E. McDaniel Jr., County Manager
Phone (928) 425-3231 Ext. 8761

Joseph T. Heatherly, Finance Director
Phone (928) 425-3231 Ext. 8743

1400 E. Ash St.
Globe, AZ 85501

GILA COUNTY
DIVISION OF HEALTH AND
EMERGENCY SERVICES
5515 S. APACHE AVENUE
GLOBE, AZ 85501
www.gilacountyaz.gov

SERVICE AGREEMENT NO. 041712

HEARING TEST MACHINE MAINTENANCE AND REPAIR

THIS AGREEMENT, made and entered into this 2nd day of May, 2012, by and between Gila County a political subdivision of the State of Arizona, hereinafter designated the **County**, and **MSR West, Inc.**, of the City of Boulder, State of Colorado, hereinafter designated the **Contractor**.

WITNESSETH: The Contractor, for and in consideration of the sum to be paid him by the County, in the manner and at the time hereinafter provided, and of the other covenants and agreement's herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE 1 – SCOPE OF SERVICES: Contractor shall provide for the maintenance and repair service of the Otoacoustic Emission (OAE) hearing test machine located at the Gila County Health Department. The otoacoustic emission testing is the recording of sounds that the ear produces itself and is used to test hearing in infants and children.

Contractor shall

- Perform annual calibration on the ARECAL AUDX's hearing test machines (2 each).
- Maintenance and calibrations shall be performed during the County's normal working hours of 8:00 am to 5:00 pm, Monday through Friday, excluding holidays.
- Calibrations shall be good for one (1) year.
- Provide unscheduled service or emergency repair service at the request of the County.
- For call outs, shall provide an on-site response time of twenty-four (24) hours or less, Monday through Friday. (May be deferred to the next working day on weekends and holidays.)

County shall

- Provide a schedule to Contractor describing when the equipment will be available for regular schedule service.
- Provide safe and clear access to the equipment.

Contractor fees (See attached Exhibit "A" by mention made a binding part of this agreement as set forth herein.)

- Scheduled maintenance service/Calibration \$130.00 per machine = \$260.00 annually
- Demand Repair and Billable Services: County will be invoiced for labor and parts at a rate of \$125.00 per service call plus cost of repair or parts if needed.

ARTICLE 2 - TERMINATION: The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interest of the County, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work as directed in the notice. If the contract is terminated, the County shall be liable only for the services rendered under this contract and accepted material received by the County before the effective date of termination.

ARTICLE 3 - INDEMNIFICATION: Each party shall indemnify and hold harmless the other, its respective employees, agents and subagents individually and collectively, from all fines, claims, demands, suits or actions of any kind including costs, expenses and attorneys' fees resulting from or claimed to have resulted from any intentional or negligent acts or omissions of the indemnifying party occurring in the performance of its responsibilities under this agreement. Where both County and Contractor, including their respective officers, employees, agents and subagents, participated in the liability causing event, each party shall contribute to the common liability a pro rata share based upon its relative degree of fault as established by compromise, arbitration or litigation.

ARTICLE 4 - INSURANCE REQUIREMENTS: Contractor will provide the County with a certificate of insurance upon request, which shall set forth the insurance coverage carried by or on behalf of the Contractor with respect to the Services provided hereunder. Provider may reasonably self-insure its obligations hereunder.

ARTICLE 5 - LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE 6- ANTI-TERRORISM WARRANTY: Pursuant to A.R.S. § 35-393.06(B) and 35-301.06(A) the Contractor certifies that it does not have scrutinized business operations in Iran or Sudan and that they are in compliance with the Export Administration Act and not on the Excluded Parties List.

ARTICLE 7 - CANCELLATION: This agreement is subject to cancellation pursuant to A.R.S. §38-511. If the Agreement is terminated, the county shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination.

ARTICLE 8 - LEGAL AZ WORKERS ACT COMPLIANCE: Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor under this contract likewise complies with the State and Federal Immigration Laws.

County shall have the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor shall be required to take such steps as may be necessary to either self-perform the services that would

have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion.

Contractor shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form: "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

ARTICLE 9 - RELATIONSHIP OF THE PARTIES: Contractor is an independent contractor of the County. Contractor represents that he has or will secure, at his own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged in work under this contract shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. Contractor warrants that he has obtained or will obtain Worker's Compensation Insurance for his employees working on this contract and that any subcontractors will likewise obtain Worker's Compensation Insurance for of their employees working on this contract. It is further agreed by Contractor that he shall obey all state and federal statutes, rules, and regulations which are applicable to provisions of the services called for herein. Neither Contractor nor any employee of the Contractor shall be deemed an officer, employee, or agent of the County.

ARTICLE 10 - NON-APPROPRIATIONS CLAUSE: Contractor acknowledges that the County is a governmental entity, and the contract validity is based upon the availability of public funding under its authority. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this contract, then this contract shall automatically expire without penalty to County after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the County shall only activate this non-appropriation provision as an emergency fiscal measure. The County shall not activate this non-appropriation provision for its convenience, to circumvent the requirements of this contract, or to enable the County to contract with another Contractor for the same supplies or services covered under this Addendum.

ARTICLE 11 - ENTIRE CONTRACT CLAUSE: The Contractor and the County have read this Contract and agree to be bound by all of its terms, and further agree that it constitutes the entire contract between the two parties and may only be modified by a written mutual contract signed by the parties. No oral agreement or oral provision outside this Contract shall have any force or effect

ARTICLE 12 - NON-WAIVER OF ENFORCEABILITY: Failure of the County to enforce, at any time, any of the provisions of this Contract, or to request at any time performance by Contractor of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this contract or any part thereof, or the right of the County to enforce each and every provision

ARTICLE 13 - GOVERNING LAW: Both parties agree that this Contract shall be governed by the laws of the state of Arizona. The parties further agree that the jurisdiction for any legal disputes arising out of this Contract shall be the Superior Court of the State of Arizona. The parties agree that even if this Contract does not specifically reference any provision required by state or federal law, those state and federally required provisions are incorporated into this Contract by this reference as though they were specifically listed herein.

ARTICLE 14- TERM: The term of the agreement shall commence on May 1, 2012, and continue to April 30, 2013, unless canceled or extended as otherwise provided herein. The agreement may be renewed upon agreement of both parties for two (2) additional one (1) year terms.

ARTICLE 15 - PAYMENT/BILLING: Contractor shall be paid per the fee schedule as stated in Article 1, but in no event shall payment exceed \$1,000.00 for the contract term without prior written approval from the County.

All invoices shall be submitted to Gila County Accounts Payable, 1400 E. Ash St, Globe, Arizona and include the following information:

- Purchase Order Number
- Contract Number
- Invoice Number
- Service Location
- Vendor Name and Address
- Description of Service

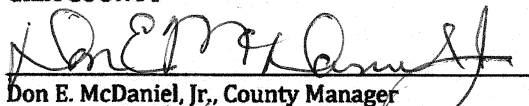
Any alterations to the scope of work resulting in a change in cost must have prior written approval by the County. Any unauthorized work may result in non-payment to the vendor.

Gila County employs a "Net 15" payment term for services meaning the payment will be issued fifteen (15) days from the date the County receives the invoice from the Contractor. Purchase orders sent to the Contractor reflect these terms and conditions.

The Contractor shall have a current I.R.S. W-9 form on file with the County unless not required by law. The County shall not remit payment if the Contractor does not have a current W-9.

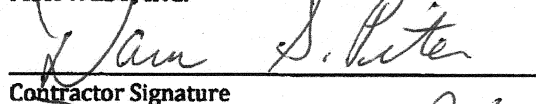
IN WITNESS WHEREOF, Service Agreement No. 041712 has been duly executed by the parties hereinabove named, on the date and year first above written.

GILA COUNTY


Don E. McDaniel, Jr., County Manager

Date: 5/6/12

MSR WEST, INC.


Contractor Signature

DANNA S. Pita
Print Name

Date: 4-17-12

APPROVED AS TO FORM

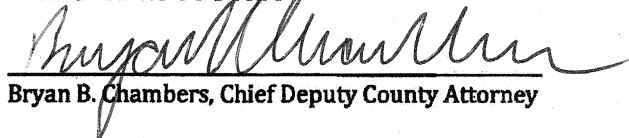

Bryan B. Chambers, Chief Deputy County Attorney

EXHIBIT "A"

Page: 1

MSR WEST, INC.
P.O. BOX 18176
BOULDER, CO 80308-8176
3036040044

Order Number: 0100725
Order Date: 3/28/2012

Salesperson: JRA
Customer Number: 01-0001542

Sold To:
GILA COUNTY HEALTH DEPARTMENT
5515 S. APACHE #100
GLOBE, AZ 85501
Confirm To:

Ship To:
GILA COUNTY HEALTH DEPARTMENT
5515 S. APACHE #100
GLOBE, AZ 85501

Customer P.O.	Ship VIA	F.O.B.	Terms			
			NET 30 DAYS			
Item Number	Unit	Ordered	Shipped	Back Order	Price	Amount

/ARECAL AUDX'S	EACH	2.0	0.0	0.0	130.00	260.00
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THIS QUOTE IS FOR ANNUAL
CALIBRATIONS FOR THE HEARING
TESTING EQUIPMENT. THE
CALIBRATIONS ARE GOOD FOR 1 YR
AND DOES NOT INCLUDE ANY
SERVICE REPAIRS OR PARTS.
A SERVICE CALL IS \$125 PLUS COST OF
ANY REPAIR OR PARTS IF NEEDED.